

EXECUTIVE SUMMARY - ENFORCEMENT MATTER
DOCKET NO.: 2008-0656-MLM-E TCEQ ID: RN101499655 CASE NO.: 35718
RESPONDENT NAME: HWY 2243 GROCERY, INC. DBA JIFFY MART 2

Page 1 of 3

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input checked="" type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input checked="" type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: 2200 South Austin Avenue, Georgetown, Williamson County</p> <p>TYPE OF OPERATION: Convenience store with retail sales of gasoline</p> <p>SMALL BUSINESS: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired August 10, 2009. No comments were received.</p> <p>CONTACTS AND MAILING LIST:</p> <p style="margin-left: 20px;">TCEQ Attorney: Mr. Phillip M. Goodwin, P.G., Litigation Division, MC 175, (512) 239-0675 Ms. Lena Roberts, Litigation Division, MC 175, (512) 239-0019</p> <p style="margin-left: 20px;">TCEQ Enforcement Coordinator: Mr. Steve Lopez, Waste Enforcement Section, MC 149, (512) 239-1896</p> <p style="margin-left: 20px;">TCEQ Regional Contact: Mr. Barry Kalda, Austin Regional Office, MC R-11, (512) 339-2929</p> <p style="margin-left: 20px;">Respondent: Mr. Zahir Ali, President, Hwy 2243 Grocery, Inc., 2200 South Austin Avenue, Georgetown, Texas 78626</p> <p style="margin-left: 20px;">Respondent's Attorney: Mr. William W. Thompson III, Grissom & Thompson, L.L.P., 609 W. 10th Street, Austin, Texas 78701</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation:</p> <p><input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date of Complaint Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: January 31, 2008</p> <p>Date of NOE Relating to this Case: March 31, 2008</p> <p>Background Facts: The EDRP was filed on October 31, 2008. The Respondent filed an answer and the matter was referred to SOAH. The agreed order was signed on June 16, 2009.</p> <p>Current Compliance Status: The Respondent corrected violation nos. 2 and 3.</p> <p>MLM:</p> <ol style="list-style-type: none"> Failed to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition or within 30 days from the date on which the owner or operator became aware of the change or addition [30 TEX. ADMIN. CODE § 334.7(d)(3)]. Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Also failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at least frequency of at least once every three years [30 TEX. ADMIN. CODE § 334.49 (c)(2)(C) and (c)(4) and TEX. WATER CODE § 26.3475(d)]. Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form [30 TEX. ADMIN. CODE § 334.8(c)(5)(C)]. 	<p>Total Assessed: \$14,059</p> <p>Total Deferred: \$0</p> <p><input type="checkbox"/> Expedited Order <input type="checkbox"/> Financial Inability to Pay <input type="checkbox"/> SEP Conditional Offset</p> <p>Total Paid/Due to General Revenue: \$409/\$13,650</p> <p>The Respondent paid \$409 of the administrative penalty. The remaining amount of \$13,650 shall be payable in 35 monthly payments of \$390 each.</p> <p>Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent implemented the following corrective measures at the Station:</p> <ol style="list-style-type: none"> Conducted the required triennial testing of the corrosion protection system with passing results; and Installed tank markers to properly label the USTs according to the UST registration and self-certification form. <p>Ordering Provisions:</p> <p>The Respondent shall undertake the following technical requirements:</p> <ol style="list-style-type: none"> Within 30 days: <ol style="list-style-type: none"> Begin conducting bimonthly inspection of the rectifier and other components of the cathodic protection system; and Install and implement a continuous monitoring leak detection system. Within 45 days, submit an amended registration to reflect the current method of release detection for the UST system. Within 60 days, submit written certification demonstrating compliance with these Ordering Provisions.

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>4. Failed to provide a functioning continuous monitoring leak detection system that is capable of immediately alerting of possible leakages [30 TEX. ADMIN. CODE § 213.5(d)(1)].</p>		



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision March 8, 2008

TCEQ

DATES	Assigned	7-Apr-2008	Screening	10-Apr-2008	EPA Due	
	PCW	12-Jun-2009				

RESPONDENT/FACILITY INFORMATION

Respondent	HWY 2243 GROCERY, INC. dba Jiffy Mart 2		
Reg: Ent. Ref. No.	RN101499655		
Facility/Site Region	11-Austin	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	35718	No. of Violations	4	
Docket No.	2008-0656-MLM-E	Order Type	1660	
Media Program(s)	Petroleum Storage Tank	Enf. Coordinator	Steven Lopez	
Multi-Media	Edwards Aquifer	EC's Team	Enforcement Team 6	
Admin. Penalty \$	Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History -10% Reduction Subtotals 2, 3, & 7 **-\$1,500**

Notes Reduction due to high performer classification.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 0% Reduction Subtotal 5 **\$0**

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary
Ordinary
N/A X (mark with x)

Notes The Respondent does not meet the good faith criteria.

0% Enhancement* Subtotal 6 **\$0**

Total EB Amounts \$1,664
Approx. Cost of Compliance \$15,608
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 Final Subtotal **\$13,500**

OTHER FACTORS AS JUSTICE MAY REQUIRE 4% Adjustment **\$559**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Recommended enhancement to capture the avoided cost of compliance associated with violation no. 2.

Final Penalty Amount **\$14,059**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$14,059**

DEFERRAL Reduction Adjustment **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes Deferral not offered for non-expedited settlement.

PAYABLE PENALTY **\$14,059**

Screening Date 10-Apr-2008

Docket No. 2008-0656-MLM-E

PCW

Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2

Policy Revision 2 (September 2002)

Case ID No. 35718

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101499655

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction due to high performer classification.

Total Adjustment Percentage (Subtotals 2, 3, & 7) -10%

Screening Date 10-Apr-2008		Docket No. 2008-0656-MLM-E		PCW
Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2		<i>Policy Revision 2 (September 2002)</i>		
Case ID No. 35718		<i>PCW Revision March 8, 2008</i>		
Reg. Ent. Reference No. RN101499655				
Media [Statute] Petroleum Storage Tank				
Enf. Coordinator Steven Lopez				
Violation Number		<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>		
Rule Cite(s)		<div style="border: 1px solid black; padding: 5px;">30 Tex. Admin. Code § 334.7(d)(3)</div>		
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition. Specifically, the registration was not updated to reflect the current method of release detection.</div>		
Base Penalty				<div style="border: 1px solid black; padding: 2px; text-align: center;">\$10,000</div>

>> Environmental, Property and Human Health Matrix

OR		Harm			
	Release	Major	Moderate	Minor	
	Actual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	Potential	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">0%</div>

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor	
	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	x	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	
	Percent <div style="border: 1px solid black; padding: 2px; text-align: center;">25%</div>				

Matrix Notes

100% of the rule requirement has not been met.

Adjustment

\$7,500

Adjustment

\$2,500

Violation Events

Number of Violation Events	<div style="border: 1px solid black; padding: 2px; text-align: center;">1</div>		Number of violation days	<div style="border: 1px solid black; padding: 2px; text-align: center;">70</div>
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<i>mark only one with an x</i>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>
	single event	<div style="border: 1px solid black; padding: 2px; text-align: center;">x</div>

One single event is recommended based on documentation of the violation during the January 31, 2008 investigation.

Violation Base Penalty

\$2,500

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	<div style="border: 1px solid black; padding: 2px; text-align: center;">\$4</div>	Violation Final Penalty Total	<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,343</div>
This violation Final Assessed Penalty (adjusted for limits)		<div style="border: 1px solid black; padding: 2px; text-align: center;">\$2,343</div>	

Economic Benefit Worksheet

Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2

Case ID No. 35718

Reg. Ent. Reference No. RN101499655

Media Petroleum Storage Tank

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$100	31-Jan-2008	31-Oct-2008	0.8	\$4	n/a	\$4

Notes for DELAYED costs

Estimated cost to accurately prepare and submit an updated UST registration. The Date Required is the date of investigation. The Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$100

TOTAL

\$4

Screening Date 10-Apr-2008

Docket No. 2008-0656-MLM-E

PCW

Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2

Policy Revision 2 (September 2002)

Case ID No. 35718

PCW Revision March 8, 2008

Reg. Ent. Reference No. RN101499655

Media [Statute] Petroleum Storage Tank

Enf. Coordinator Steven Lopez

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 334.49(c)(2)(C) and 334.49(c)(4) and Tex. Water Code § 26.3475(d)

Violation Description

Failed to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Jiffy Mart also failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 50%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 1

70

Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$5,000

One quarterly event is recommended from the investigation date of January 31, 2008 to the compliance date of March 13, 2008

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$560

Violation Final Penalty Total \$4,686

This violation Final Assessed Penalty (adjusted for limits) \$4,686

Economic Benefit Worksheet

Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2

Case ID No. 35718

Reg. Ent. Reference No. RN101499655

Media Petroleum Storage Tank

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$100	2-Dec-2007	31-Jan-2008	1.1	\$5	\$100	\$105
Other (as needed)	\$378	31-Jan-2005	13-Mar-2008	4.0	\$76	\$378	\$454

Notes for AVOIDED costs

Estimated avoided cost for conducting bimonthly inspection (\$100). The Date Required is 60 days before the investigation. The Final Date is the investigation date. Actual avoided cost for completing the triennial test (\$378). The Date Required is three years before the investigation. The Final Date is the compliance date.

Approx. Cost of Compliance

\$478

TOTAL

\$560

Screening Date 10-Apr-2008		Docket No. 2008-0656-MLM-E		PCW																			
Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2		<small>Policy Revision 2 (September 2002)</small>																					
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Media [Statute] Petroleum Storage Tank																							
Enf. Coordinator Steven Lopez																							
Violation Number		<div style="border: 1px solid black; padding: 2px;">3</div>																					
Rule Cite(s)		<div style="border: 1px solid black; padding: 2px;">30 Tex. Admin. Code § 334.8(c)(5)(C)</div>																					
Violation Description		<div style="border: 1px solid black; padding: 5px;">Failed to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.</div>																					
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		Harm																					
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Matrix Notes	<div style="border: 1px solid black; padding: 5px; text-align: center;">100% of the rule requirement was not met.</div>																						
Adjustment					<div style="border: 1px solid black; padding: 2px;">\$7,500</div>																		
					<div style="border: 1px solid black; padding: 2px;">\$2,500</div>																		
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<small>mark only one with an x</small>	daily	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>	Violation Base Penalty			<div style="border: 1px solid black; padding: 2px;">\$2,500</div>																	
	monthly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	quarterly	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	semiannual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
	annual	<div style="border: 1px solid black; width: 40px; height: 15px;"></div>																					
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<div style="border: 1px solid black; padding: 5px; text-align: center;">One single event is recommended based on documentation of the violation during the January 31, 2008 investigation.</div>																							
Economic Benefit (EB) for this violation			Statutory Limit Test																				
Estimated EB Amount		<div style="border: 1px solid black; padding: 2px;">\$2</div>	Violation Final Penalty Total		<div style="border: 1px solid black; padding: 2px;">\$2,343</div>																		
This violation Final Assessed Penalty (adjusted for limits)					<div style="border: 1px solid black; padding: 2px;">\$2,343</div>																		

Economic Benefit Worksheet**Respondent** HWY 2243 GROCERY, INC. dba Jiffy Mart 2**Case ID No.** 35718**Reg. Ent. Reference No.** RN101499655**Media** Petroleum Storage Tank**Violation No.** 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$30	31-Jan-2008	16-Feb-2009	1.0	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to label the tank fill ports. The Date Required is the date of investigation. The Final Date is the date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$30

TOTAL

\$2

Screening Date 10-Apr-2008		Docket No. 2008-0656-MLM-E		PCW	
Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2		<i>Policy Revision 2 (September 2002)</i>			
Case ID No. 35718		<i>PCW Revision March 8, 2008</i>			
Reg. Ent. Reference No. RN101499655					
Media [Statute] Petroleum Storage Tank					
Enf. Coordinator Steven Lopez					
Violation Number 4					
Rule Cite(s)		30 Tex. Admin. Code § 213.5(d)(1)			
Violation Description		Failed to provide a functioning continuous monitoring leak detection system that is capable of immediately alerting of possible leakages.			
Base Penalty					\$10,000

>> Environmental, Property and Human Health Matrix						
OR	Release	Major	Harm Moderate	Minor		
	Actual				Percent	
	Potential	x			50%	

>> Programmatic Matrix						
	Falsification	Major	Moderate	Minor		
					Percent	0%
Matrix Notes	Human health or the environment will or could be exposed to pollutants which would exceed levels that are protective of human health or environmental receptors as a result of the violation.					
Adjustment					\$5,000	

Violation Events				
		1	70	Number of violation days
<i>mark only one with an x</i>	daily			
	monthly			
	quarterly	x		
	semiannual			
	annual			
	single event			
One quarterly event is recommended from the investigation date of January 31, 2008 to the screening date of April 10, 2008.				
Violation Base Penalty		\$5,000		

Economic Benefit (EB) for this violation		Statutory Limit Test	
Estimated EB Amount	\$1,099	Violation Final Penalty Total	\$4,686
This violation Final Assessed Penalty (adjusted for limits)		\$4,686	

Economic Benefit Worksheet

Respondent HWY 2243 GROCERY, INC. dba Jiffy Mart 2

Case ID No. 35718

Reg. Ent. Reference No. RN101499655

Media Petroleum Storage Tank

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment	\$15,000	31-Jan-2008	16-Feb-2009	1.0	\$52	\$1,047	\$1,099
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to install interstitial monitoring for release detection. The Date Required is the date of investigation.
The Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$15,000

TOTAL

\$1,099

Compliance History Report

Customer/Respondent/Owner-Operator: CN600786040 Hwy 2243 Grocery, Inc. Classification: HIGH Rating: 0.00
Regulated Entity: RN101499655 JIFFY MART 2 Classification: HIGH Site Rating: 0.00
ID Number(s): PETROLEUM STORAGE TANK REGISTRATION 16750
REGISTRATION
EDWARDS AQUIFER REGISTRATION 11-94102001
Location: 2200 AUSTIN AVE, GEORGETOWN, TX, 78626
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: May 12, 2009
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 10, 2003 to April 10, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Steven Lopez Phone: 512-239-1896

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership/operator of the site during the compliance period? No
3. If Yes, who is the current owner/operator? N/A
4. If Yes, who was/were the prior owner(s)/operator(s)? N/A
5. When did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2008 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 06/24/2003 (277823)
2 11/18/2004 (291302)
3 03/31/2008 (616990)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
N/A
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A
- Sites Outside of Texas
N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
HWY 2243 GROCERY, INC. DBA
JIFFY MART 2
RN101499655**

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§
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**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0656-MLM-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Hwy 2243 Grocery, Inc. dba Jiffy Mart 2 ("Hwy 2243 Grocery") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, represented by the Litigation Division, and Hwy 2243 Grocery, represented by Bill Thompson of Grissom & Thompson, L.L.P., appear before the Commission and together stipulate that:

1. Hwy 2243 Grocery owns and operates a convenience store with retail sales of gasoline at 2200 South Austin Avenue, Georgetown, Williamson County, Texas (the "Facility").
2. This Agreed Order is entered into pursuant to TEX. WATER CODE §§ 7.051 and 7.070. The Commission has jurisdiction of this matter pursuant to TEX. WATER CODE § 5.013 because it alleges violations of TEX. WATER CODE ch. 26 and TCEQ rules.
3. The Commission and Hwy 2243 Grocery agree that the Commission has jurisdiction to enter this Agreed Order, and that Hwy 2243 Grocery is subject to the Commission's jurisdiction.
4. Hwy 2243 Grocery received notice of the violations alleged in Section II ("Allegations") on or about April 5, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Hwy 2243 Grocery of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of fourteen thousand fifty-nine dollars (\$14,059) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Hwy 2243 Grocery has paid four hundred nine dollars (\$409.00) of the administrative penalty. The remaining amount of thirteen thousand six hundred fifty dollars (\$13,650.00) of the administrative penalty shall be payable in thirty-five monthly payments of three hundred ninety dollars (\$390.00) each. The first monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If Hwy 2243 Grocery fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, including the payment schedule, the Executive Director may, at his option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of Hwy 2243 Grocery to meet the payment schedule of this Agreed Order constitutes the failure of Hwy 2243 Grocery to timely and satisfactorily comply with all of the terms of this Agreed Order.
7. Any notice and procedures which might otherwise be authorized or required in this action are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Hwy 2243 Grocery have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Hwy 2243 Grocery implemented the following corrective measures at the Facility in response to this enforcement action:
 - a. As of February 16, 2009, Hwy 2243 Grocery has conducted the required triennial testing of the corrosion protection system with passing results.
 - b. As of February 16, 2009, Hwy 2243 Grocery has installed tank markers to properly label the USTs according to the UST registration and self-certification form.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Hwy 2243 Grocery has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.

12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

1. During an investigation conducted on January 31, 2008, an Austin Regional Investigator documented that Hwy 2243 Grocery violated:
 - a. 30 TEX. ADMIN. CODE § 334.7(d)(3) by failing to notify the agency of any change or addition within 30 days from the date of the occurrence of the change or addition, or within 30 days from the date on which the owner or operator first became aware of the change or addition. Specifically, the registration was not updated to reflect the current method of release detection.
 - b. 30 TEX. ADMIN. CODE § 334.49(c)(2)(C) and (c)(4) and TEX. WATER CODE § 26.3475(d) by failing to inspect the impressed current cathodic protection system at least once every 60 days to ensure that the rectifier and other system components are operating properly. Hwy 2243 Grocery also failed to have the cathodic protection system inspected and tested for operability and adequacy of protection at a frequency of at least once every three years.
 - c. 30 TEX. ADMIN. CODE § 334.8(c)(5)(C) by failing to ensure that a legible tag, label, or marking with the tank number is permanently applied upon or affixed to either the top of the fill tube or to a nonremovable point in the immediate area of the fill tube according to the UST registration and self-certification form.
 - d. 30 TEX. ADMIN. CODE § 213.5(d)(1) by failing to provide a functioning continuous monitoring leak detection system that is capable of immediately alerting of possible leakages.

III. DENIALS

Hwy 2243 Grocery generally denies each allegation in Section II ("Allegations").

IV. ORDER

1. It is, therefore, ordered by the TCEQ that Hwy 2243 Grocery pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Hwy 2243 Grocery's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from considering or requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "Texas Commission on Environmental Quality" and shall be sent with the notation "Re: Hwy 2243 Grocery, Inc. dba Jiffy Mart 2, Docket No. 2008-0656-MLM-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. Hwy 2243 Grocery shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, Hwy 2243 Grocery shall:
 - i. Begin conducting bimonthly inspection of the rectifier and other components of the cathodic protection system, in accordance with 30 TEX. ADMIN CODE § 334.49(c)(2); and
 - ii. Install and implement a continuous monitoring leak detection system, in accordance with 30 TEX. ADMIN CODE § 213.5.
 - b. Within 45 days after the effective date of this Agreed Order, Hwy 2243 Grocery shall submit an amended registration to reflect the current method of release detection for the UST system, in accordance with 30 TEX. ADMIN CODE § 334.7, to:

Registration and Reporting Section
Permitting & Remediation Support Division, MC-138
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

- c. Within 60 days after the effective date of this Agreed Order, Hwy 2243 Grocery shall submit written certification as described below, and include detailed supporting

documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision Nos. 2.a. and 2.b. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Barry Kalda, Waste Section Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon Hwy 2243 Grocery. Hwy 2243 Grocery is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If Hwy 2243 Grocery fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, Hwy 2243 Grocery's failure to comply is not a violation of this Agreed Order. Hwy 2243 Grocery shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. Hwy 2243 Grocery shall notify the Executive Director within seven days after Hwy 2243 Grocery becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by Hwy 2243 Grocery shall be made in writing to the Executive Director. Extensions are not effective until Hwy 2243 Grocery receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against Hwy 2243 Grocery in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142, the effective date of this Agreed Order is the date of hand-delivery of the Order to Hwy 2243 Grocery, or three days after the date on which the Commission mails notice of the Order to Hwy 2243 Grocery, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

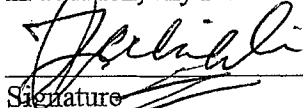
7/21/2009
Date

I, the undersigned, have read and understand the attached Agreed Order. I represent that I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on Hwy 2243 Grocery's compliance history;
- Greater scrutiny of any permit applications submitted by Hwy 2243 Grocery;
- Referral of this case to the Attorney General's office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against Hwy 2243 Grocery;
- Automatic referral to the Attorney General's Office of any future enforcement actions against Hwy 2243 Grocery; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

6/16/09
Date

ZAHIR ALI

Name (Printed or typed)

Authorized representative of

Hwy 2243 Grocery, Inc. dba Jiffy Mart 2

President
Title